

# Goals and Criteria for Evaluating Proposed Telecommunications Apportionment Sales Factor

Draft - - For Discussion Purposes Only

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1. Does the proposal help **simplify** the computation of the tax base?
  - a. Can the elements of the proposed factor be located **geographically**?
  - b. Will the proposal facilitate **clarity** and **compliance** with the tax laws?
  - c. How will the proposal impact the **cost of administration** for both taxpayers and the state?
2. Does the proposal promote a reasonable apportionment of income in **relationship to the benefits**, opportunities, services and protection firms receive from the state; such as the provision of highways, police, fire protection, schools, waste disposal, a legal infrastructure and other public sector goods and services? For example, the Supreme Court has noted that the standard three-factor formula “can be justified as a rough, practical approximation of the distribution of either a corporation’s sources of income or the social costs which it generates.” (*General Motors Corp. v. District of Columbia* 380 US 553, (1965)) and “has gained wide approval ...because payroll, property, and sales appear in combination to reflect a very large share of the activities by which value is generated.”(*Container Corp.*)
3. Does the proposal provide an appropriate **balance** among the apportionment factors or does it produce distorted results, for example by giving too much weight to either production activity or market activity.
4. Does the proposal produce an **equitable** apportionment of the tax base?
  - a. Will the proposal promote **horizontal equity** by treating taxpayers in the same situation similarly? For example, will taxpayers with similar value of business activity in the state report a similar amount of taxable income to the state?
  - b. Will the proposal promote **vertical equity** treating taxpayers who are not in the same situation differently, in an equitable manner? For example, will firms with a larger amount of business activity in the state apportion a larger share of their income to the state under the proposal?
5. Does the proposal **discriminate** against either out-of-state commerce or purely in-state commerce?

6. Is the proposal **efficient** in terms of economic neutrality? Will it create distortions by giving firms incentives to use one type of production process over another, or to locate property and/or payroll in one area as opposed to another?
7. Does the proposal “reinvent the wheel” or is it generally similar to other apportionment rules and **widely accepted**?
8. Does the proposal minimize the opportunity for **manipulation** of the apportionment result?
9. Does the proposal avoid under or over reporting of income, or duplicative taxation? Does it help assure that taxable income is **taxed once** - avoiding “nowhere income” - and only once?
10. Will the proposal have a disruptive **fiscal impact** to the state or revenue impact to the taxpayer?